

## **PARTICIPATING ADDENDUM for State of Washington**

(Washington State Department of Information Services Amendment Number 00-01)

### **WESTERN STATES CONTRACTING ALLIANCE**

#### **GATEWAY COMPANIES, INC.**

##### **MASTER PRICE AGREEMENT**

91-00151

Go directly to the pricing: [http://techmall.dis.wa.gov/master\\_contracts/PCs/gateway\\_PC.asp](http://techmall.dis.wa.gov/master_contracts/PCs/gateway_PC.asp)

1. Scope: The **Washington State Department of Information Services (“DIS”)** is the Participating Entity under this Participating Addendum and its jurisdiction for purposes of this Agreement includes any Washington State agency, or any political subdivision of the state of Washington, or non-profit organization, who have the authority to purchase the Products or Services that are the subject of this Agreement, and who have a properly executed Interlocal Cooperative Agreement (Customer Service Agreement) with DIS. This Participating Addendum is not for personal use.
2. Changes:
  - a) Paragraph 1 (Definitions)

“Equipment” shall be limited to Contractor’s Commercially offered Products. SpotShop.com items will not be available at this time.
  - b) Paragraph 6 (Payment Provisions).
    - (i) Replace the text in subparagraph A (Acceptance) with the following:

The Procuring Agency shall determine whether all Products delivered to it meet the Contractor’s published specifications. Within fifteen (15) days from the date of delivery, the Procuring Agency shall issue a written certification of complete or partial acceptance or rejection of the Products and/or Services. Should the Procuring Agency fail to provide such certification within the above-described fifteen (15) days, all Products and/or Services delivered to the Procuring Agency shall be deemed accepted.
    - (ii) Replace the text in the first paragraph of subparagraph B (Payment of Invoice) with the following:

Payments shall be submitted to the Contractor at the address shown on the invoice. Payment shall be tendered to the Contractor within thirty (30) days after delivery of all Products on such invoice or thirty (30) days after receipt of the properly prepared invoice, whichever is later. If the Procuring Agency fails to make timely payment, Contractor may invoice the Procuring Agency one percent (1%) per month on the amount overdue. The Procuring Agency shall make a good faith effort to pay within thirty (30) days of the invoice date of a properly prepared invoice.
    - (iii) Add at the end of the text in subparagraph D (Invoices) the following:

The Purchase Order Number shall appear on all invoices, bills of lading, packages, and correspondence relating to each order placed to Contractor.
  - c) Paragraph 8 (Termination)

Add after the first sentence in subparagraph A (Termination for Convenience) the following:

At any time after the first anniversary date of the Agreement, DIS or Contractor may terminate its Participating Addendum, in whole or in part, by giving the other party thirty (30) days written notice.

d) Paragraph 12 (Patent, Copyright, Trademark and Trade Secret Indemnification).

Replace the text of subparagraph A2 with the following:

cooperate with and agree to use its best efforts to encourage the Office of the Attorney General of Washington to grant Contractor sole control of the defense and all related settlement negotiations; and

e) Paragraph 31 (Applicable Law).

Replace the text with the following:

This Agreement shall be governed in all respects by the law and statutes of the state of Washington. Jurisdiction for any action hereunder shall be the Superior Court for the state of Washington. Venue of any action hereunder shall be in the Superior Court for Thurston County, Washington.

f) Paragraph 40 (Agreement Administrator).

Replace the text in subparagraph E with the following:

The administrator shall receive and approve quarterly price Agreement utilization reports and the administration fee payments for WSCA.

(See new Paragraph 47 (Washington Administration Reporting and Fees), section 2g) below.)

g) Add new paragraph 47 (Washington Administration Reporting and Fees).

Contractor agrees to provide monthly reports to the Washington Primary Contact (Paragraph 4 below). The monthly report shall include the gross Washington sales for the month just ended, less returns, perms/cancellations, replacements, and sales tax, subtotaled by Procuring Agency name within Washington. The report shall be accompanied with a check payable to **TBS Contract Manager** for an amount equal to one and one-half percent (1.5% or .015) of the gross Washington sales, less returns, perms/cancellations, replacements, and sales tax, for the month. The monthly report and fee shall be submitted by the last business day of the month following the month in which Contractor invoiced the Procuring Agency. Monthly reports are required even if no activity occurred.

h) Add new paragraph 48 (Participating Entity Invoice Audits).

As a part of its Participating Entity function, DIS will from time to time perform audits of Procuring Agency invoices to ensure that the Contractor is complying with the Agreement. DIS will perform these audits by selecting Procuring Agencies from a periodic report and asking Contractor to send copies of the invoices and corresponding Purchase Orders for those Procuring Agencies for that report period. Contractor shall ensure that DIS receives the requested invoices within thirty (30) days of Contractor's receipt of DIS' request. Contractor shall be responsible for any audit exceptions or disallowed costs.

i) Add new paragraph 49 (Contractor's Proprietary Information).

Contractor acknowledges that the Participating Entity is subject to chapter 42.17 Revised Code of Washington (RCW) and that this Agreement shall be a public record as defined in RCW 42.17.250 through 42.17.340. Any specific information that Contractor claims to be confidential or proprietary shall be clearly identified as such by Contractor. To the extent consistent with chapter 42.17 RCW, the Participating Entity shall maintain the confidentiality of all such information marked confidential or proprietary. If a request is made to view Contractor's proprietary information, the Participating Entity will notify Contractor of the request and of the date that the records will be released to the requester unless Contractor obtains a court order enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, the Participating Entity will release the requested information on the date specified.

3. Lease Agreements: The lease agreement terms and conditions have not been approved for use by Procuring Agencies under this Participating Addendum.
4. Primary Contact: The primary contact individual for this Participating Addendum is as follows:

**Bob DeShaye**  
**PO Box 42445**  
**605 11<sup>th</sup> Avenue SE**  
**Olympia, WA 98504-2445**  
**Telephone: (360) 902-0304**  
**Fax: (360) 753-1673**  
**E-mail: bobd@dis.wa.gov**

5. Price Agreement Number: All Purchase Orders issued by Procuring Agencies within the state of Washington shall include the following price agreement number: 91-00151.

This Addendum and the Price Agreement together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter hereof and supercedes all previous communications, representations or agreements, whether oral or written. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Participating Addendum and the Price Agreement, together with its exhibits, shall not be added to or incorporated into this Participating Addendum or the Price Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Participating Addendum and the Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

**APPROVED**

State of Washington  
Department of Information Services

**APPROVED**

Gateway Companies, Inc.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Michael D. McVicker

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Assistant Director, TSD

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Tim McCabe

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Director, Sales

\_\_\_\_\_  
Title

\_\_\_\_\_  
January 4, 2000

\_\_\_\_\_  
Date